

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

HURMAN LEE ROBERTS, JR.,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-22-0892-HE
)	
KEVIN STITT, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff Hurman Lee Roberts, Jr., a state prisoner appearing *pro se*, filed suit alleging his constitutional rights were being violated. Plaintiff alleges that the three branches of Oklahoma’s government acted in concert to commit crimes against him. Plaintiff, however, was not directly challenging his conviction or conditions of confinement. Rather, plaintiff has sued the governor and attorney general of Oklahoma alleging that they failed to properly respond to correspondence he mailed to them and therefore violated his constitutional rights. Pursuant to 28 U.S.C. § 636(b)(1(B) and (C), the matter was referred to Magistrate Judge Suzanne Mitchell for initial proceedings. Upon initial screening of the complaint, Judge Mitchell issued a Report and Recommendation recommending that the complaint be dismissed for failure to state a plausible claim for relief. Plaintiff has objected to the Report triggering *de novo* review of matters to which objection has been made.

Plaintiff’s first claim is that the defendants violated 21 Okla. Stat. § 543 which makes it a crime to compound or conceal the crime of another. Plaintiff alleges that

defendants violated this statute by failing “to send a law enforcement official to take [an] official report on the plaintiff’s complaints that the 3 [branches] of Oklahoma’s government has committed crimes against the plaintiff” while he was incarcerated in the Joseph Harp Correctional Center.” Doc. #1-1, p. 2-3. The court agrees with the Report that plaintiff’s first claim fails to state a plausible claim for relief.

Plaintiff’s second claim is that defendants violated 21 Okla. Stat. § 850(A)(1) which makes it a crime to assault or batter another person based on that person’s race, color, religion, ancestry, national origin, or disability. Plaintiff alleges that defendants refused to investigate his allegations “based on the plaintiff’s disabilities as a convicted felon, sex offender, and mental disability” in violation of the 8th Amendment’s prohibition on cruel and unusual punishment. Doc. #1-1, p. 7. Again, plaintiff has failed to plead a plausible claim for relief.

Finally, plaintiff alleges that defendants conspired together to violate 21 Okla. Stat. § 543. As the Report notes, plaintiff has failed to allege the essential elements of a conspiracy in violation of his constitutional rights.

Because plaintiff has failed to plead any plausible claim for relief, the Report and Recommendation [Doc. #16] is **ADOPTED**. Plaintiff’s complaint is **DISMISSED** without prejudice but without leave to amend.

IT IS SO ORDERED.

Dated this 13th day of February, 2023.



JOE HEATON
UNITED STATES DISTRICT JUDGE